IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2400 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ANASUYABEN BHIKHUBHAI VYAS

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2400 of 2001

MS SADHANA SAGAR for Petitioner No. 1

MR PRADIP D BHATE A.G.P. for Respondent No. 1-2

RULE SERVED for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 15/03/2004

ORAL JUDGEMENT

The petitioner was appointed as part time sweeper-cum-water server in the office of respondent

no.3. Initially, she was required to work for two hours in a day, but subsequently, the working hours were increased and she was required to serve for the whole day. Her grievance is that inspite of working for the whole day, she was being paid consolidated salary for three to four hours only. She made several attempts to the concerned authority to regularize her services in view of the fact that she had been working as part time sweeper-cum-water server since September, 1994, but the request was not acceded to. It is stated at the bar by Ms. Sadhna Sagar learned advocate appearing for the petitioner that even today, she has been working as part time sweeper-cum-water server in the said office.

2. As against that, no affidavit has been filed by the other side and the averments made in the petition remain uncontroverted.

3. The question regarding regularization of service on temporary or part time employee who has put in number of years of service has been considered and decided by this Court in Special Civil Application No. 8917 of 1998 and its cognate matters by judgment dated 17th February, 2004. In view of the said judgment, this petition deserves to be allowed with the following directions :-

The respondents are, therefore, now required to be directed that irrespective of the Circular of 21st August, 1995, they shall consider the case of the petitioner for appointment on permanent post in Class-IV and if the permanent posts are found vacant, she shall be appointed on the same in accordance with her claim, in the matter of seniority and the Regulations and if otherwise, she is not ineligible. Appointment should not be denied on the ground overage or on the ground that it may amount to giving a back-door entry. This exercise is to be carried out as early as possible but in any case not later than 30th May, 2004. If need be, the petitioner can make appropriate representation, which will be considered in light of this judgment and in particular, the direction given therein.

The petition is, therefore, partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[AKSHAY H. MEHTA, J.]

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